23 Civ. 8000 (JPC) (GS) ORDER OF SERVICE

JOHN P. CRONAN, United States District Judge:

LINITED STATES DISTRICT COLLET

Plaintiff, who is appearing *pro se*, brings this action against the Small Business Administration's ("SBA") under the Civil Rights Act of 1866, 42 U.S.C. § 1981; the Due Process and Equal Protection Clauses of the Fifth Amendment; and the Tucker Act, 28 U.S.C. §§ 1346 and 1491. Plaintiff asserts that the SBA's programs and contracts for women-owned businesses constitute unlawful discriminatory practices based on sex. By Order dated September 20, 2023, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.

I. Discussion

A. Plaintiff's Second Amended Complaint

On May 30, 2024, Chief Judge Laura Taylor Swain dismissed Plaintiff's amended complaint for lack of standing but granted him 30 days' leave to replead his claims in a second amended complaint. On June 10, 2024, in response to the Order, Plaintiff filed a submission styled as a "Motion to Initiate Lawsuit." Dkt. 14. The Court construes the submission as a second amended complaint.

B. Service on the Small Business Administration

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. Walker v. Schult, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); see also 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). To allow Plaintiff to effect service on the SBA through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for the SBA. The Clerk of Court is further instructed to: (1) mark the box on the USM-285 form labeled "Check for service on U.S.A."; and (2) issue a summons for the SBA and deliver to the Marshals Service a copy of this Order and all other paperwork necessary for the Marshals Service to effect service on the SBA.

If the second amended complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

¹Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the second amended complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date a summons is issued.

II. Conclusion

As discussed, the Court construes Plaintiff's "Motion to Initiate Lawsuit," Dkt. 14, as a second amended complaint. The Clerk of Court is respectfully instructed to (1) issue a summons for the SBA; (2) complete the USM-285 form with the address for the SBA; (3) mark the box on the USM-285 form labeled "Check for service on U.S.A."; and (4) deliver to the U.S. Marshals Service all documents necessary to effect service on the SBA. The Clerk of Court is further respectfully directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: June 14, 2024

New York, New York

JOHN P. CRONAN United States District Judge

SERVICE ADDRESS FOR EACH DEFENDANT

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